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April 4, 2006

To: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: David E. Janssen
Chief Administrative Officer

WASHINGTON, D.C. UPDATE

Pursuit of County Positions on Telecommunications Reform

The Congress is considering a re-write of the Telecommunications Act of 1996, which would grant telephone companies, such as AT&T and Verizon, greater latitude to compete in the video market place. Proposed legislation seeks to accomplish this goal by establishing a national franchise process to be administered by the Federal Communications Commission (FCC). This would replace the existing local video franchise process. Last year, a number of bills, including S. 1504 (Ensign, R-NV), S. 1349 (Smith, R-OR and Rockefeller, D-WV), and H.R. 3146 (Blackburn), were introduced that would eliminate existing local franchise authority.

Last week, following several months of bipartisan negotiations, House Energy and Commerce Committee Chair Barton (R-TX) released a draft proposal which would, at the option of an applicant, replace local video franchises with a national FCC-administered franchise process. The language permitting a national franchise is applicable to both new video entrants (telephone companies) and existing cable operators. As currently drafted, the proposal would preserve local authority over public rights-of-way, the current five percent gross revenue cap on franchise fees, PEG channel requirements, and the ability of local governments to provide telecommunications services and impose fees for E-911 and 911 services. While the draft bill would prohibit discrimination based on income, it lacks "build-out" language that would require all areas in a community to be served rather than only the most lucrative markets.

The County currently has 35 cable television franchises in its unincorporated areas. Under the terms of existing franchise agreements, which are monitored by the Department of Consumer Affairs (DCA), the County manages public rights-of way, collects approximately $4 million annually through a five percent fee on gross revenues, imposes public, educational, and governmental (PEG) channel requirements, and protects consumer interests. DCA indicates that the Federal proposals could preempt the current authority of local governments to franchise video (cable) services, manage and receive compensation for public rights-of-way, and protect their residents from poor service.

The House Energy and Commerce Telecommunications Subcommittee is scheduled to mark up Barton's telecommunications reform legislation on April 5, 2006. While most Democrats on the Telecommunications Subcommittee are likely to oppose the bill primarily because it does not contain "build-out" requirements for new video service franchisees, the legislation is likely to be reported from Subcommittee. Full Committee markup is not expected until after the two-week spring recess, which begins at the end of the week. The Senate Commerce Committee, which held informational hearings earlier in the year, is not expected to mark up its version until late April or early May.

The Federal Agenda, adopted by your Board on February 21, 2006, includes an overall policy opposing Federal preemption of State and local government authority and specific policies opposing proposals that would preempt local government authority over telecommunications services, such as the franchising and regulation of local cable television services, zoning of television, radio, and other telecommunications broadcast towers, and protection of consumers relating to telecommunication services. It also includes policies to support proposals that would encourage competition among providers for the full range of telecommunication services and promote universal and affordable access to telecommunication services, and to oppose proposals that would result in a net revenue loss to State and local governments. **Based on these Board-adopted policies, the County's Washington advocates will pursue the following positions on telecommunications reform:**

- Support proposals to preserve local government authority to franchise and regulate video services, protect the consumer interests of residents, manage public rights-of- way, and ensure that other local telecommunications needs are met, such as the need for public, educational, and governmental channels, local emergency alerts, and institutional networks;

- Support proposals to protect existing local revenues by opposing proposals to eliminate or reduce local government authority to impose fees or taxes on telecommunication services, including video services, and by supporting proposals that would ensure that any changes affecting video franchises are revenue neutral for local governments;

- Support proposals that would preserve local government authority over E-911 and 911 services; and

- Support proposals that would encourage greater competition in the provision of video and other telecommunication services while ensuring that such services are universally accessible and affordable to all local residents.

We will continue to keep you advised.

DEJ:GK
MAL:MT:cc

c: All Department Heads
Legislative Strategist